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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DAVID HOUGH;
MOULOUD HOCINE;
JENNIFER LEHMKUHL HILL;
AMUND THOMPSON;
PAUL PANICO

Plaintiffs,

vs.

RYAN CARROLL;
MAX K. DAY;
MAX O. DAY;
MICHAEL DAY;
YAX ECOMMERCE LLC;
PRECISION TRADING GROUP, LLC;
WA DISTRIBUTION LLC;
PROVIDENCE OAK PROPERTIES,
LLC;
WA AMAZON SELLER LLC;
MKD INVESTMENT ADVISOR, LLC;
MKD FAMILY BENEFICIARY, LLC;
MKD FAMILY PRIVATE
MANAGEMENT COMPANY, LLC;
MAX DAY CONSULTING, LLC;

) Case No.: 2:24-cv-02886

) **EX PARTE APPLICATION FOR A**
) **TEMPORARY RESTRAINING**
) **ORDER AND ORDER TO SHOW**
) **CAUSE RE: PRELIMINARY**
) **INJUNCTION**

1 HOUTEX FARM EQUITY PARTNERS
2 LLC;
3 BUSINESS FINANCIAL SOLUTIONS
4 ADVISORY LLC;
5 EVO MAXX LLC;
6 YAX IP AND MANAGEMENT INC.
7 (D.B.A. "FULFILLABLE");
8 WWKB LLC;
9 DREAMS TO REALITY LLC;

Defendants.

**EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION**

To preserve the possibility of effective final relief, Plaintiffs respectfully
request that the Court issue a temporary restraining order ("TRO") that:

1. Orders all of the entity defendants not to transfer, liquidate, or otherwise
dispose of any assets owned by or held for the benefit of defendants without
leave of the Court.
2. Orders all of the individual defendants not to transfer, liquidate, or
otherwise dispose of any assets beyond what is necessary for ordinary
personal or household expenditures, which expenditures may not exceed
\$9,000 per month without leave of the Court.
3. Orders all Defendants to provide to Plaintiffs, within five days of receiving
the order, information sufficient to identify accounts holding any and all
assets for the benefit of any defendant.

1 Plaintiffs also respectfully request that the Court order all Defendants to show
2 cause (“OSC”) why a preliminary injunction that extends the relief sought in the
3 temporary restraining order until the close of the case should not be issued.
4

5 Plaintiffs bring this motion *ex parte* pursuant to Federal Rule of Civil
6 Procedure 65. The requested TRO and OSC are warranted for the reasons discussed
7 in the accompanying memorandum and exhibits, including the declarations by the
8 undersigned, Plaintiffs, and other victims of Defendants.
9

10 As attested to in the undersigned’s sworn statement attached to this motion,
11 Defendants received notice of this motion.
12

13 Plaintiffs believe that attorney Rachel Crockett represents or will represent all
14 Defendants. Rachel Crockett can be reached at 214-930-9249 and
15 rachel@lloydmousilli.com. Her address is 11807 Westheimer Rd #550, Houston, TX
16 77077.
17

18 DATED: April 9, 2024

19 /s/Nico Banks
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MEMORANDUM OF POINTS AND AUTHORITIES

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<u>Exhibit</u>	<u>Description</u>
PX A	Declaration of Nico Banks
PX B	Declaration of David Hough
PX C	Declaration of Jennifer Lehmkuhl Hill
PX D	Declaration of Mouloud Hocine
PX E	Declaration of Amund Thompson
PX F	Declaration of Philip Harrinarine
PX G	Declaration of Jameson Croney
PX H	Declaration of Shanon McAlister
PX I	Declaration of John Cundiff
PX J	Declaration of Benjamin David
PX K	Declaration of Philip Stoops
PX L	Declaration of Dominic Camany
PX M	Declaration of Paul Panico
PX N	Form Declarations of Various Other Former Wealth Assistants Clients

INTRODUCTION AND BACKGROUND

Defendants Max K. Day, Max O. Day, and Michael Day (collectively, “the Day Family Defendants”) are career criminals who, for decades, have stolen the savings of thousands of individuals through various fraudulent schemes. Their latest fraudulent enterprise, and the subject of this case, is Wealth Assistants. From 2022 to 2023, Wealth Assistants lured hundreds of individuals, including Plaintiffs, to pay an upfront fee of \$35,000 to \$125,000 to invest in online stores that Wealth Assistants would purportedly manage. But Wealth Assistants did not manage those stores. Instead, Defendants, including the Day Family Defendants, stole most of the money that Plaintiffs and the other victims thought they were investing in the stores.

Wealth Assistants and the Day Family Defendants then requested payments from Plaintiffs for the stores’ “inventory.” But many of the invoices for the inventory that Defendants sent turned out to be fake; after Plaintiffs paid the invoices, no inventory ever actually appeared in the stores. Again, the individual defendants used that inventory money for their own personal gain instead.

Wealth Assistants shut down in October of 2023, and Defendants are in the process of laundering the proceeds of their fraudulent scheme. Defendants’ efforts to launder the proceeds of their fraudulent scheme include their use of an “escrow agent” that mailed Wealth Assistants’ clients a credit card reader and asked the clients to use the credit card reader to make small discrete payments into an “escrow account” for the benefit of Wealth Assistants.

1 Notably, Wealth Assistants’ fraudulent scheme is a cookie-cutter copy of at least
2 two other fraudulent schemes that have been prosecuted within the last six years.
3 Moreover, at least two commercial banks have frozen Wealth Assistants’ assets, but
4 Defendants have been able to continue their money-laundering activities because of
5 the lack of a more general asset-freeze order from a court.
6

7 Plaintiffs therefore respectfully request that the Court enter an order temporarily
8 freezing all Defendants’ assets except the assets they must spend for necessary
9 personal expenses. Without the requested partial asset freeze, Defendants will
10 continue their money-laundering process and further diminish the funds available to
11 pay Wealth Assistants’ victims when a judgment is eventually entered against
12 Defendants.
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15 **LEGAL STANDARD**

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17 To obtain injunctive relief freezing assets, a plaintiff must show: “(1) that he is
18 likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the
19 absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4)
20 that an injunction is in the public interest.” *Johnson v. Couturier*, 572 F.3d 1067,
21 1078 (9th Cir. 2009) (internal citations omitted).
22

23 More specifically, an *ex parte* temporary restraining order freezing assets may be
24 proper—even where, unlike in this case, defendants have not received notice of the
25 hearing—where plaintiffs are seeking equitable remedies, and they can establish that
26 the defendant has engaged in a pattern of dissipating assets, because that order may
27
28

1 be necessary to preserve the possibility of final remedies. *Id.* at 1085; *Hilao v. Estate*
2 *of Marcos*, 25 F.3d 1467, 1480 (9th Cir. 1994).

3 Likewise, an *ex parte* temporary restraining order may order defendants to quickly
4 identify their assets when the defendants have a pattern of dissipating assets. Fed R.
5 Civ. P. 26(d)(1) (allowing for expedited discovery when a plaintiff shows good
6 cause); *Hardware, Inc. v. Alimia Light*, 23-cv-00948-HSG, at *5 (N.D. Cal. May 24,
7 2023) (“As to expedited discovery, Plaintiffs seek information from third parties that
8 may hold funds associated with infringing sales. Courts have discretion to expedite
9 discovery for good cause, particularly in cases where plaintiffs seek temporary or
10 preliminary injunctive relief.”).

14 ARGUMENT

15 A. Plaintiffs Have A High Likelihood Of Prevailing On The Merits

16 Plaintiffs have brought a cause of action alleging that Defendants conspired to
17 violate the California Unfair Competition Law (“UCL”), and Plaintiffs seek the
18 equitable remedy of restitution as a remedy. *See* California Business and Professions
19 Code § 17200 and §17500. To prevail on the merits, Plaintiffs must show that
20 Defendants conspired to misrepresent the business opportunities offered to Plaintiffs,
21 and that Plaintiffs suffered harm as a result. *See id.* To show the existence of a
22 conspiracy, Plaintiffs must show the existence of “an agreement . . . No formal
23 agreement between the parties is essential to the formation of the conspiracy, for the
24 agreement may be shown if there be concert of action, all the parties working
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1 together understandingly, with a single design for the accomplishment of a common
2 purpose.”” *Wood v. Greenberry Fin. Servs., Inc.*, 907 F. Supp. 2d 1165, 1181 (D.
3 Haw. 2012) (quoting *Marino v. United States*, 91 F.2d 691, 694 (9th Cir.1937)).
4

5 To show a likelihood of prevailing on the merits, a motion for a temporary
6 restraining order must be supported by “[e]vidence that goes beyond the unverified
7 allegations of the pleadings.” *See* 9 Wright Miller, Federal Practice Procedure § 2949
8 (2011). However, in deciding a preliminary injunction, a district court may consider
9 hearsay and other inadmissible evidence “if doing so serves the purpose of preventing
10 irreparable harm before trial.” *Flynt Distrib. Co. v. Harvey*, 734 F.2d 1389, 1394 (9th
11 Cir. 1984); *see also Johnson*, 572 F.3d at 1083.
12
13

14 Here, ample evidence in the declarations accompanying this motion
15 demonstrates that Defendants not only violated California Business and Professions
16 Code § 17200 and §17500 by misleading their clients, but defrauded their clients,
17 including Plaintiffs.
18

19 To begin with, there is ample evidence of Wealth Assistants’ false promises.
20 The declarations show that every Plaintiff, and many other individuals, received
21 statements from Wealth Assistants projecting that stores managed by Wealth
22 Assistants should be expected to generate thousands of dollars per month in passive
23 income for each Plaintiff.¹ There is also ample evidence demonstrating that Wealth
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28 ¹ *E.g.*, PX B at ¶ 1; PX C at ¶ 1; PX D at ¶ 1-2; PX E at ¶ 1.

1 Assistants never provided—and never intended to provide—Plaintiffs with the highly
2 profitable store-management services that Wealth Assistants advertised and that
3 Plaintiffs invested in. Some of Wealth Assistants’ customers never even received an
4 online store after paying the fee.² Others received stores (which themselves are
5 valueless and can be easily and freely set up),³ but their stores were never stocked
6 with any inventory.⁴ Others paid Wealth Assistants for inventory after receiving
7 inventory invoices from Wealth Assistants that turned out to be fake; the inventory
8 never actually appeared in their stores.⁵ Ultimately, dozens of declarations—as well
9 as information collected in an online form from more than 100 other victims of
10 Wealth Assistants—show that the vast majority of Wealth Assistants clients have
11 received less than \$10,000 in revenue from their online stores, and many never
12 received a single dollar of revenue from their stores (if they received stores at all).⁶

13 The declarations also evidence that each defendant individually violated the
14 California Unfair Competition Law, and each defendant also conspired with the other
15 Defendants to operate the Wealth Assistants fraudulent enterprise. To begin with,
16 **Defendant Ryan Carroll** is the Chief Executive Officer and an owner of Wealth
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24 ² E.g., PX K at ¶ 7 (“Wealth Assistants never set up an online store for me and never refunded my fee.”).

25 ³ Amazon, “How To Build An Online Store In 5 Steps,” available at <https://sell.amazon.com/build-an-online-store> (last accessed April 8, 2024).

26 ⁴ E.g., PX C at ¶ 5-6; PX D at ¶ 4; PX H at ¶ 6.

27 ⁵ E.g., PX C at ¶ 5-6; PX F at ¶ 13-14 (“I told a representative of Wealth Assistants that I had paid the \$5,000 charge for the Jackson Home Goods inventory . . . Wealth Assistants never listed a product for sale in Jackson Home Goods.”); PX J at ¶ 9.

28 ⁶ See PX A at ¶ 2-6 (discussing the online form); PX B-N (declarations of more than 25 clients of Wealth Assistants, none of whom received more than \$10,000 in total in connection with their stores).

1 Assistants.⁷ Carroll claims that he founded Wealth Assistants and led the company's
2 growth.⁸ Moreover, Carroll used videos of himself to recruit new clients for Wealth
3 Assistants.⁹ He made intentionally false statements in those videos. For example, he
4 stated in at least one of those recorded videos that Wealth Assistants' stores could be
5 expected to generate more than \$10,000 in profits per month.¹⁰

7 Ryan Carroll also managed many of the entity defendants that did business as
8 Wealth Assistants. Specifically, according to corporate registrations, he managed
9 Defendant Yax Ecommerce LLC,¹¹ Defendant WA Amazon Seller LLC,¹² and
10 the North Carolina branch of Defendant WA Distribution LLC,¹³ all of which did
11 business as Wealth Assistants.¹⁴ Ryan Carroll also owns Defendant Dreams To
12 Reality LLC, which is an owner of Wealth Assistants.¹⁵

15 Next, Defendant Max K. Day is an owner of Wealth Assistants. Ryan Carroll
16 has described Max K. Day as his "mentor" and "business partner" in starting and
17 managing Wealth Assistants.¹⁶ Max K. Day formed and managed Defendant
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21 ⁷ *Wealth Assistants v. Thread Bank*, No. 4:24-cv-00040, ECF 13 (S.D. Tex. 2024) (Wealth Assistants' amended
22 complaint alleging that its owners are Ryan Carroll, Max K. Day, and Michael Day).

23 ⁸ PX A, Ex. 18 (Ryan Carroll's biography on Forbes).

24 ⁹ Many of those videos are available at <https://vimeo.com/wealthassistants> (last accessed April 8, 2024).

25 ¹⁰ Wealth Assistants, "Wealth Assistants Amazon Automation Overview," available at
26 <https://vimeo.com/wealthassistants> (last accessed April 8, 2023). Carroll's discussion of financial projections begins at
27 approximately 6:00 in the video.

28 ¹¹ PX A, Ex. 3;

¹² PX A, Ex. 15.

¹³ PX I, Ex. 4.

¹⁴ Yax Ecommerce was formerly known as Wealth Assistants LLC. See PX A, Ex. 3. WA Distribution LLC sent
invoices to Plaintiffs and collected payments from them. E.g., PX F, ¶ 17 ("We made the payment to WA Distribution
LLC for \$1,205.82.").

¹⁵ *Wealth Assistants v. Thread Bank*, No. 4:24-cv-00040, ECF 13 (S.D. Tex. 2024).

¹⁶ PX A, ¶ 13-15.

1 **Precision Trading Group, LLC.**¹⁷ According to Precision Trading Group’s
2 corporate registration, it operated under the “assumed names” of “Wealth Assistants
3 LLC,” “WA Distribution, LLC,” “WA Brand Management, LLC,” and “WA Amazon
4 Seller, LLC” beginning on December 14, 2022.¹⁸

5
6 Max K. Day is also the Director of Defendant **Providence Oak Properties,**
7 **LLC.**¹⁹ Providence Oak Properties, LLC accepted payments on behalf of Wealth
8 Assistants from many of Wealth Assistants’ customers.²⁰ Furthermore, a
9 representative of Wealth Assistants stated, “Providence Oak Properties is a part of
10 Wealth Assistants.”²¹

11
12 Max K. Day also “manages” all of the following companies, which do not
13 appear to have real operations and appear to serve solely to conceal or dissipate assets
14 for the reasons described below:
15

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- 18 • **Yax IP and Management Inc., f.k.a. Pithy Productions, Inc., f.k.a. “Yax IP**
19 **and Management Inc.,” d.b.a. Fulfillable**
 - 20 ○ Yax IP/Fulfillable appears to be Wealth Assistants’ alter ego for the
21 following reasons: (1) it has the same law firm of record (Mac Leckrone)
22 as many of the Defendant entities; (2) it also has the same registered
23 agent (“Cogency Global Inc.”) as many of the defendant entities; (3) its
24 name’s prefix (“Yax”) matches the prefix of the current name of Wealth
25 Assistants LLC (which changed its corporate name to “Yax

26 ¹⁷ PX A, Ex. 2.

27 ¹⁸ *Id.*

28 ¹⁹ PX A, Ex. 5.

²⁰ PX F, ¶ 13.

²¹ *Id.*

Ecommerce”); (4) a press release indicates that “Max Day” is the “CEO of Fulfillable.”²²

- **HouTex Farm Equity Partners LLC**

- HouTex is a cricket farm according to its website. According to its corporate registration, it is managed by Max K. Day and has its corporate headquarters listed as Max K. Day’s home.²³ However, its phone line on its website does not seem to accept calls.²⁴ Because there is no evidence that it has real operations, is likely engaged in money laundering rather than cricket farming.

- **MKD Investment Adviser;**

- MKD Investment Adviser appears to be Max K. Day’s alter ego not only because of its name but also because MKD Investment Adviser is the registered owner of Max K. Day’s home.²⁵

- **MKD Family Beneficiary;**

- MKD Family Beneficiary appears to be Max K. Day’s alter ego not just because of the initials at the beginning of the corporate name, but also because it has the same registered address as MKD Investment Adviser.²⁶

- **MKD Family Private Management Company;**

- MKD Family Beneficiary appears to be Max K. Day’s alter ego not just because of the initials at the beginning of the corporate name, but also because it has the same registered address as MKD Investment Adviser.²⁷

- **Max Day Consulting**

- Max Day Consulting appears to be Max K. Day’s alter ego not only because of its name but also because its address is also Precision Trading Group, LLC’s address.²⁸

- **Business Financial Solutions Advisory LLC**

²² PX A, Ex. 6, 16.

²³ PX A, Ex. 10.

²⁴ PX A, Ex. 12, 17.

²⁵ PX A, Ex. 14.

²⁶ PX A, Ex. 26.

²⁷ PX A, Ex. 13.

²⁸ PX A, Ex. 11.

- Business Financial Solutions Advisory LLC appears to be Max K. Day's alter ego because it is managed by Max K. Day and has the same corporate address as Max K. Day's home address.²⁹

- **Evo Maxx LLC**

- Either Defendant Max K. Day or Defendant Max O. Day is the manager of this corporation. The attorney of record is Feras Mousilli, who is the principal of the law firm that is the attorney of record on many of the entity defendants' corporate registrations. The agent is Cogency Global Inc., which is the same agent as many of the entity defendants' corporate registrations. The address is the same as WA Amazon Seller LLC's address.³⁰

Moreover, Max K. Day falsely represented to one or more of Wealth Assistants' clients that they would receive a refund on their store.³¹

Next, Defendant **Max O. Day** was the Chief Growth Officer at Wealth Assistants.³² Max O. Day not only served as an executive of the company, but he also met with many Wealth Assistants clients and intentionally made misrepresentations to them. For example, in or around August of 2023, Max O. Day helped convince an individual named Craig Dillehay to purchase the business opportunity Wealth Assistants was offering, in part by telling Dillehay that the stores Wealth Assistants was managing were very profitable.³³ Max O. Day also helped convince an individual named Korey McAleejergins to purchase the business opportunity Wealth Assistants was offering.³⁴

²⁹ PX A, Ex. 8.

³⁰ PX A, Ex. 9.

³¹ PX L, ¶ 4.

³² PX A, ¶ 16, Ex. 19.

³³ PX A, ¶ 17, Ex. 19.

³⁴ PX A, ¶ 18.

1 Defendant **Michael Day** was another owner of Wealth Assistants.³⁵ His
2 involvement in the Wealth Assistants fraud included recruiting clients with false
3 promises. For example, he recruited Wealth Assistants' client Haider Istambouli with
4 false statements about Wealth Assistants' ability to generate passive income for its
5 clients.³⁶ Defendant Michael Day also owns WWKB LLC, which is an owner of
6 Wealth Assistants.³⁷

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9 **B. Plaintiffs Would Suffer Great Harm If Their Request For An Asset Freeze**
10 **Were Denied Because Defendants Have A History Of Fraud And Money**
11 **Laundering**

12 Plaintiffs would suffer great harm if the TRO were denied because Defendants
13 would likely dissipate recoverable assets. Indeed, the limited documents available to
14 Plaintiffs in this emergency motion already amply demonstrate that Defendants have
15 a history of dissipating assets. *See Hilao*, 25 F.3d at 1480 (holding that temporary
16 restraining orders are proper where plaintiffs can establish that defendant has engaged
17 in a pattern of dissipating assets).

18
19 The Day Family defendants have a long history of fraud. In 1992, Max K. Day
20 agreed to injunctive relief sought by the Federal Trade Commission regarding a
21 fraudulent credit card scheme.³⁸ In 2006, a company called Today's Destiny—run by
22 the Day Family defendants and other members of their family—declared bankruptcy,
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27 ³⁵ *Wealth Assistants v. Thread Bank*, No. 4:24-cv-00040, ECF 13 (S.D. Tex. 2024).

28 ³⁶ PX A, Ex. 22.

³⁷ *Wealth Assistants v. Thread Bank*, No. 4:24-cv-00040, ECF 13 (S.D. Tex. 2024).

³⁸ *See Hill v. Day*, No. 06-cv-03285, ECF 1 at ¶ 14 (Bankr. S.D. Tex., 2006).

1 and the Day Family defendants were all named as defendants in an adversary
2 pleading by the United States Trustee for Today's Destiny. The trustee stated, in
3 part,³⁹

4
5 Through various related entities and individuals, Debtor has attempted to place
6 its assets beyond the reach of its creditors. Debtor, Medicus, IBD,
7 Straightaway, Teamwork, and perhaps other corporate entities, as well as the
8 individuals have shared common addresses, bank accounts, employees, and
9 attorneys. Common to the scheme is the acquisition of large amounts of cash
through deception and fraud, and the subsequent liquidation of assets of the
corporate shell used to front the deception.

10 Defendants have used similar tactics to hide their assets in this case. Indeed, from
11 the beginning, Wealth Assistants dispersed across many different accounts assets
12 collected from Wealth Assistants' victims, including Plaintiffs. It used entities that it
13 referred to as "payment processors" to try to hide its assets.⁴⁰ "Payment processor"
14 was Wealth Assistants' euphemism to describe a money-laundering mule. That is, a
15 payment processor's role was to receive payments from Wealth Assistants' clients
16 and then pass those payments to other bank accounts not disclosed to Wealth
17 Assistants' clients.

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19 For example, a law firm called Marker Law served as a payment processor for
20 Wealth Assistants.⁴¹ Marker Law received the payments from Wealth Assistants'
21 clients and then passed the payments to other bank accounts, which were affiliated

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26 ³⁹ *Id.* at ¶ 18. The Trustee's case was supported by ample evidence, including a declaration from an insider describing
27 how the Day family perpetrated the fraudulent scheme. *See Hill v. Day*, No. 06-cv-03285, ECF 718 (Bankr. S.D. Tex.,
2006) (describing much of the evidence presented).

28 ⁴⁰ PX A, ¶ 19-21.

⁴¹ PX I, ¶ 4.

1 with Wealth Assistants but not disclosed to Plaintiffs.⁴² Marker Law collected these
2 payments by shipping Wealth Assistants' clients credit card readers and having the
3 clients make small discrete payments into the credit card readers.⁴³

4
5 Defendants collected payments from Plaintiffs in plenty of other clandestine
6 accounts. An entity called Mint Solutions was a "payment processor" that, like
7 Marker Law, collected payments from Wealth Assistants clients and passed those
8 payments to unknown accounts.⁴⁴ Moreover, an account associated with Defendant
9 WA Distribution LLC accepted some of the credit card payments from Plaintiffs;⁴⁵ an
10 account associated with Defendant Precision Trading Corp. LLC accepted some
11 payments from Plaintiffs;⁴⁶ and many payments were directed to an account affiliated
12 with "Wealth Assistants LLC," which is the former name of the entity now known as
13 Yax Ecommerce LLC.⁴⁷ However, those three accounts were *not* the final destination
14 for payments that were originally sent to payment processor Marker Law.⁴⁸

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18 Wealth Assistants' dispersed accounts also included at least three bank accounts at
19 Bank of America opened by Defendant Ryan Carroll.⁴⁹ On or around November 17,
20 2022, Bank of America froze Wealth Assistants' accounts.⁵⁰ After Wealth Assistants

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23 ⁴² *Id.*, ¶ 4-6.

24 ⁴³ *Id.*

25 ⁴⁴ PX A, ¶ 22.

26 ⁴⁵ PX F, ¶ 17.

27 ⁴⁶ PX K, ¶ 6.

28 ⁴⁷ PX K, Ex. 1 (Stoops's contract with Wealth Assistants, which includes wiring instructions to Wealth Assistants LLC at p. 13).

⁴⁸ PX A, Ex. 21 (the banking information that Marker Law used to send payments to Wealth Assistants).

⁴⁹ *Wealth Assistants LLC v. Bank of America, N.A.*, 4:23-cv-00216 (S. Dist. Tex. 2006), ECF 1.

⁵⁰ *Id.*

1 sued Bank of America, the bank closed the accounts by writing a cashier's check to
2 Wealth Assistants for over \$3.7 million.⁵¹ Similarly, in or around October of 2023, a
3 bank called Thread Bank froze at least six distinct bank accounts that Wealth
4 Assistants had opened with that bank.⁵²

6 In the end, there is probably no way to identify all of the many accounts to which
7 Defendants have already dispersed the funds they fraudulently collected from
8 Plaintiffs. But there is no doubt that it would cause great harm to Plaintiffs to allow
9 Defendants to continue to disperse and conceal the remaining assets by denying the
10 TRO.

13 **C. The Balance Of Hardships Favors Granting The Injunctive Relief**

14 Defendants "can have no vested interest in [a] business activity found to be
15 illegal." *United States v. Diapulse Corp. of Am.*, 457 F.2d 25, 29 (2d Cir. 1972)
16 (internal quotations and citation omitted); *see also FTC v. World Wide Factors, Ltd.*,
17 882 F.2d 344, 347 (9th Cir. 1989).

19 Here, Plaintiffs will suffer a large degree of harm without injunctive relief from
20 this court because, as discussed above, there is a strong likelihood that Defendants
21 will continue to hide and dissipate their assets, rendering final relief impossible. By
22 contrast, there is no oppressive hardship to Defendants in requiring them to produce
23 basic information about their financial accounts and refrain from concealing their
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27 ⁵¹ *Wealth Assistants LLC v. Bank of America, N.A.*, 4:23-cv-00216 (S. Dist. Tex. 2006), ECF 27.

28 ⁵² *Wealth Assistants v. Thread Bank*, No. 4:24-cv-00040 (S.D. Tex. 2024), ECF 1.

1 assets or continuing to use those assets in an illegal manner. *See World Wide Factors*,
2 882 F.2d at 347.

3 To be sure, an asset freeze may cause significant harm to individual defendants if
4 it prevents them from meeting their basic living expenses. *See Johnson v. Couturier*,
5 572 F.3d 1067 (9th Cir. 2009). Here, however, the proposed order provides an ample
6 allowance of \$9,000 per month for the individual defendants to meet their basic living
7 expenses.
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10 **D. The Requested Injunctive Relief Is In The Public Interest**

11 Asset freezes can “serve the public's interest in stopping, investigating and
12 remedying frauds.” *Gaponyuk v. Alferov*, 2:23-cv-01317-KJM-JDP, at *5 (E.D. Cal.
13 July 20, 2023) (citing *Jacobo v. Doe*, No. 22-00672, 2022 WL 2079766, at *2 (E.D.
14 Cal. June 9, 2022)). Here, for the reasons discussed above, freezing Defendants’ assets
15 would be in the public’s interest because it would preserve the possibility of a
16 meaningful remedy not just for Plaintiffs, but also for Defendants’ hundreds of other
17 victims.
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21 **E. In Nearly Identical Cases, Courts Have Issued Temporary Restraining Orders**

22 Courts in the Ninth Circuit have granted *ex parte* motions for temporary
23 restraining orders in cases nearly identical to this one that were recently brought by
24 the Federal Trade Commission (“FTC”), and in those cases the courts did so without
25 any notice to the defendants. For example, in *FTC v. Automators*, 23-cv-1444 (S. D.
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1 Cal. 2023), ECF 5, the Federal Trade Commission described the facts this way in its
2 *ex parte* motion for a temporary restraining order:

3 Defendants lure consumers into “investing” in a “100% turnkey” Amazon or
4 Walmart Automation store with promises that it will generate passive income
5 and become a “cash flow machine.”

6 . . .

7 Defendants—using the names Automators LLC, Empire Ecommerce LLC,
8 Onyx Distribution LLC, Stryder Holdings LLC, and Pelenea Ventures LLC—
9 have sold online store business opportunities ranging in price from \$10,000 to
10 \$175,000. In addition to that initial fee, purchasers have had to provide
11 “working capital” for the stores Defendants promised to run for them, ranging
12 from \$15,000 to \$80,000. The vast majority of Defendants’ clients have lost
13 their entire investment and more, and many were left with massive credit card
14 bills.

15 Incredibly, the *Automators* fraudulent scheme and the *Wealth Assistants*
16 fraudulent scheme were so similar that they even used a virtually identical pitch deck
17 to lure victims. For example, compare the financial projections slide in the
18 *Automators* pitch deck to the financial projections slide in the *Wealth Assistants* pitch
19 deck:
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Automators Pitch Deck Financial Projections⁵³

OUR AMAZON MANAGEMENT FINANCIAL PROJECTION BREAKDOWN			
Month	Monthly Gross Sales	Monthly Profit Totals	ROI Percentages
1-2 (Warm Up Period)	up to \$10,000	up to \$3,000	10 - 25%
3-4	\$3,000 - \$20,000	\$300 - \$6,000	10 - 25%
5-8	\$10,000 - \$40,000	\$1,000 - \$12,000	10 - 25%
9-12	\$20,000 - \$80,000	\$2,000 - \$24,000	10 - 25%
First Year Totals:	\$125,000 - \$540,000	\$12,500 - \$162,000	10 - 25%
12-16	\$60,000 - \$110,000	\$6,000 - \$33,000	10 - 25%
16-20	\$100,000 - \$135,000	\$10,000 - \$40,500	10 - 25%
20-24+	\$135,000 - \$185,000+	\$13,500 - \$55,500+	10 - 25%

*Please note these numbers are before our profit splits

Wealth Assistants Pitch Deck Financial Projections⁵⁴

OUR AMAZON MANAGEMENT FINANCIAL BREAKDOWN			
Month	Monthly Gross Sales	Monthly Profit Totals	ROI Percentages
1-3 (Probation Period)	\$7,000 - \$10,000	\$1,000 - \$2,000	15 - 20%
3-6	\$20,000 - \$35,000	\$3,000 - \$7,000	15 - 20%
6-9	\$35,000 - \$50,000	\$5,000 - \$10,000	15 - 20%
9-12	\$50,000 - \$80,000	\$7,500 - \$16,000	15 - 20%
First Year Totals:	\$315,000 - \$525,000	\$49,500 - \$105,000	15 - 20%
12-16	\$80,000 - \$110,000	\$12,000 - \$22,000	15 - 20%
16-20	\$110,000 - \$135,000	\$16,500 - \$27,000	15 - 20%
20-24+	\$135,000 - \$185,000+	\$20,250 - \$37,000+	15 - 20%

*Please note these numbers are before our profit splits

⁵³ See *FTC v. Automators*, 23-cv-1444 (S. D. Cal. 2023), ECF 1.

⁵⁴ PX A, Ex. 23.

1 The Federal Trade Commission moved *ex parte* for a temporary restraining
2 order that included an asset freeze and a requirement for the *Automators* Defendants
3 to produce financial information. *Id.* The legal standard the district court applied to
4 determine whether to issue a temporary restraining order was the same as the
5 standard courts apply to determine whether to issue a temporary restraining order
6 upon the request of a private party.⁵⁵

7
8 The court granted the Federal Trade Commission's motion for an *ex parte*
9 temporary restraining order— all the relief that Plaintiffs are requesting in the present
10 case (specifically, an asset freeze and a turnover of financial statements), among other
11 relief—reasoning as follows:⁵⁶

12
13 [T]he current record demonstrates that there is good cause to believe that
14 immediate and irreparable damage to the Court's ability to grant effective final
15 relief for consumers—including monetary restitution, rescission, or refunds—
16 will occur from the sale, transfer, destruction or other disposition or
17 concealment by Defendants or Relief Defendant of their assets or records,
18 unless Defendants and Relief Defendant are immediately restrained and
19 enjoined by order of this Court. Thus, there is good cause for relieving the FTC
20 of the duty to provide Defendants and Relief Defendant with prior notice of its
21 Motion for a Temporary Restraining Order.

22 Likewise, in *FTC v. AWS*, 18-cv-00442 (D. Nev. 2018), the FTC described the
23 facts this way in its *ex parte* motion for a temporary restraining order:

24 Defendants prey on consumers who seek the American dream of starting a new
25 business. Defendants lure consumers into purchasing expensive business
26 opportunities with purported "secrets for making money on Amazon." They
27 represent that purchasers are likely to "create financial freedom" and earn
28 thousands of dollars a month by implementing Defendants' "systems for

⁵⁵ Fed. R. Civ. P. 65(b).

⁵⁶ See *Federal Trade Commission v. Automators*, 23-cv-1444 (S. D. Cal. 2023), ECF 8.

1 success on Amazon." Contrary to Defendants' promises, most, if not virtually
2 all, purchasers do not earn the advertised income.

3 The Court summarily granted the plaintiff's *ex parte* motion for a temporary
4 restraining order. The *AWS* court's order included all the relief Plaintiffs are
5 requesting in this case, along with other relief.⁵⁷
6

7 **F. Plaintiffs Should Not Be Required To Post Any Security In Connection**
8 **With The Temporary Restraining Order**

9 Federal Rule of Civil Procedure 65(c) states:

10 The court may issue a preliminary injunction or a temporary
11 restraining order only if the movant gives security in an amount
12 that the court considers proper to pay the costs and damages
13 sustained by any party found to have been wrongfully enjoined or
restrained.

14 However, "The district court is afforded wide discretion in setting the amount
15 of the bond, and the bond amount may be zero if there is no evidence the party will
16 suffer damages from the injunction." *Conn. Gen. Life Ins. Co. v. New Images*, 321
17 F.3d 878, 882 (9th Cir. 2003) (internal citations omitted). "Further, a strong
18 likelihood of success on the merits may favor "a minimal bond or no bond at all."
19 *California v. Tahoe Regional Planning Agency*, 766 F.2d 1319, 1326 (9th Cir. 1985).
20

21 Here, because Plaintiffs have shown that they will succeed on the merits, there
22 is no evidence that Defendants will suffer damages from the injunction. Accordingly,
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28 ⁵⁷ *Id.* at ECF 25.

1 Plaintiffs respectfully request that the Court exercise its discretion to not require a
2 bond in connection with the temporary restraining order.

3
4 **CONCLUSION**

5 For these reasons, Plaintiffs respectfully request that the Court issue the requested
6 Order to Show Cause and Temporary Restraining Order.

7 DATED: April 9, 2024

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WORD COUNT COMPLIANCE CERTIFICATION

The undersigned, counsel of record for Plaintiffs, certifies that this brief contains fewer than 7,000 words, which complies with the word limit of L.R. 11-6.1

/s/Nico Banks

Nico Banks

Dated: April 9, 2024

AFFIRMATION OF NOTICE GIVEN

On April 9, 2024, I emailed Lema Mousilli (lema@lloydmousilli.com) and Rachel Crockett (rachel@lloydmousilli.com)—both of whom are lawyers at the law firm Lloyd Mousilli in Dallas, Texas—with a link to the Complaint, Temporary Restraining Order, and all Exhibits to the Temporary Restraining Order. In other proceedings, those two lawyers have represented all defendants in this matter. In March of 2024, Lema Mousilli requested that I direct communications in all matters to her firm rather than directly to her clients.

I assume that Defendants oppose the motion.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements in this Affirmation of Notice Given are true and correct.

/s/Nico Banks

Nico Banks

Dated: April 9, 2024